

**EXHIBIT 1**

42047-0001  
FILE

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OCT 16 2006

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David H. Shoup, Esq.  
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(907) 278-8533 Fax: (907) 278-8536

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

MICHAEL INVESTMENTS, LLC,

Plaintiff,

-vs-

THE GLIDDEN COMPANY, and  
ICI PAINTS,

Defendants.

Case No. 3:05-CV-223 (TMB)

DISCLOSURE OF EXPERT WITNESS

Plaintiff, by and through counsel, and pursuant to the Scheduling and Planning  
Order and Federal Rule 26(a)(2), hereby discloses following expert witness:

Michael Stapleford  
Professional Engineer  
Vollmer-Gray Engineering Laboratories, Inc.  
2421 Palm Drive  
Signal Hill, CA 90766

A copy of Mr. Stapleford's report and C.V. is attached.

TINDALL BENNETT & SHOUP, P.C.  
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1 DATED at Anchorage, Alaska this 13<sup>th</sup> day of October, 2006.

2 TINDALL BENNETT & SHOUP, P.C.  
3 Attorneys for Plaintiff

4  
5 By: [Signature]  
6 for David H. Shoup, ABA No. 8711106  
7 Tindall Bennett & Shoup, P.C.  
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12 E-mail: Shoup@Tindall-law.com

13 I HEREBY CERTIFY that on this 13<sup>th</sup> day of  
14 October, 2006, a true and correct copy  
15 of the foregoing was served by mail on:

16 James E. Torgerson  
17 Heller Ehrman LP  
18 510 L Street, Suite 500  
19 Anchorage, AK 99501-1959

20 By: [Signature]  
21 Tindall Bennett & Shoup

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**MICHAEL STAPLEFORD**

**TECHNICAL AREAS OF SPECIALIZATION:**

- Accident Reconstruction
- Computer Modeling and Animation
- Collision Repair Inspection
- Automotive Fraud Detection
- Vehicle Systems Analysis
- Slip/Trip and Fall Analysis

**EDUCATION:**

Bachelor of Science in Mechanical Engineering  
Cal Poly, San Luis Obispo (1986)

**Additional Training:**

ICAR Certified, Automotive Collision Repair (2000)

ASE Certified in: Engine  
Automatic Transmission  
Steering and Suspension  
Brakes  
A/C and Cooling  
Refinishing  
Structural Repair  
Non-structural Repair

Commercial Vehicle Accident Investigation Certificate, UC Riverside  
Human Factors/Biomechanics Certificate, UC Riverside  
Vehicle Analysis for Automotive Repair Fraud, UC Riverside  
Crash Data Retrieval Certificate, Collision Safety Institute  
PC Crash – Computer Crash Simulation  
Certified Operator, English XL Variable Incidence Tribometer  
Motor Vehicle Accident Reconstruction, SAE Professional Development Program

**REGISTRATION:**

Registered Professional Engineer, California Number M32051

**PROFESSIONAL EXPERIENCE:**

Staff Engineer, Vollmer-Gray Engineering Laboratories, Inc. (September 2003 to present). Accident reconstruction, collision repair inspections, automotive fraud detection, vehicle inspection and systems analysis, industrial equipment accidents, construction accidents, slip/trip and fall analysis, illumination testing, building code compliance, product safety analysis.

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Testimony of Michael Stapleford as of October 11, 2006

DEPOSITIONS					
Lab No.	Date	Case Name	Case No.	Venue	Attorney
040095	3/3/2004	Garcia vs. Home Depot	TC016971	Los Angeles County	Sidney Mendlovitz
040051	1/21/2003	Quero vs. Patel dba, 99 Cent Stores	RIC387145	Riverside County	Christian Wilbert
030910	1/26/2004	Wiggins, et al vs. Foot Locker	02CC18388	Orange County	Levitt & Leichenger
040625	9/23/2004	Brown vs. The Village at Orange	04CC04804	Orange County	Ludwig Law Center
060018	9/9/2005	Nyugen vs Ford	04CC16508	Orange County	Egeman & Brown
040544	11/8/2004	Mendoza vs. Munoz	GC032312	Los Angeles Northeast Dist.	Richardson, Bambrick, et al
050068	3/14/2005	Williams vs. Nunez, et al	04CC04219	Orange County - Central	Zurawski & Chase
050238	5/25/2005	O'Keefe vs. Rech, et al	04CC06549	Orange County - Central	Maguire & Associates
050151	8/4/2005	Guevara vs. Glendale Mitsubishi	BC315807	Los Angeles County	Brennan, Wiener & Simons
050494	1/20/2006	Glenn-Thomas vs. Wageman	PC035982	Los Angeles County - Chatsworth	Ford, Walker, Haggerty & Behar
ARBITRATIONS					
Lab No.	Date	Case Name	Case No.	Venue	Attorney
040213	5/26/2004	Tillman vs. Exchange	G2889513	Los Angeles County	Gilbert, Kelly, Crowley & Jennett
040494	7/1/2004	Modjaz vs. Exchange			Gilbert, Kelly, Crowley & Jennett
060745	9/25/2006	Llamas vs. Farmers Insurance		Los Angeles County	Early, Maslach & Oetzs
TRIALS					
Lab No.	Date	Case Name	Case No.	Venue	Judge Name
N/A	5/5/2003	Chan vs. Serramonte	SCN-1D4981	San Mateo Co.	
N/A	x/4/03	Chan vs. Serramonte	SCN-1D4981	San Mateo Co.	
031148	3/10/2004	People vs. Paz	3CR12038	Los Angeles County	
040507	7/20 & 7/21/04	People vs. Rodriguez	4MT02139	Los Angeles County	Charles G. Rubin
040658	10/6/2005	People vs. Hodge	YA054615	Los Angeles County	John Mason
050505	7/28/2006	De La Cruz vs. Berrio	LC070861	Los Angeles County	
050547	9/28/2005	People vs. Gregozo	YA060691	Los Angeles County	Eric C. Taylor
050372	7/20/2005	Rallia vs. Huxley	BC310773	Los Angeles County	
040625	11/10/2004	Brown vs. The Village at Orange	04CC04804	Orange County	Derek G. Johnson
050018	7/20, 7/21, 8/4/06	Nguyen vs. Ford	04CC16606	Orange County - Central Justice Center	Michael Brennan



## FEE SCHEDULE

	CONSULTING (per hour)	TESTIMONY (2-hour minimum)
Carrie Henger	\$100.00	\$150.00
Isaac Ikram	\$150.00	\$200.00
Christopher Brignola	\$150.00	\$200.00
Anthony LaPallo	\$150.00	\$250.00
Michael Stapleford	\$200.00	\$250.00
Philippe Van Herle	\$210.00	\$260.00
Bruce J. Agle	\$210.00	\$260.00
Ian Morrison	\$225.00	\$275.00
Paul Guthorn	\$250.00	\$300.00
Gerald Zamiski	\$250.00	\$300.00
Ned Wolfe	\$275.00	\$325.00
Cory Gray	\$275.00	\$325.00
Reuben Vollmer	\$275.00	\$325.00
*****		
Technician		\$50.00 per hour
Delivery		\$25.00 per hour
Mileage		\$.60 per mile
Photos, mounted		\$2.00 each
Digital prints		\$2.00 each \$20.00 per CD
Color copies		\$1.00 per page
Photographic expense		\$1.00 each
Read and correct depo transcript		One minute per page

NOTE: All time is charged portal-to-portal from Long Beach. There is a 2-hour minimum for deposition, arbitration and trial testimony. Compensation for services performed will not be contingent upon the necessity of client to receive payment from other parties. All items stored on our premises are subject to a storage fee.

Effective 1/1/06



**LABORATORY NUMBER 050320**

**ENGINEERING ANALYSIS IS REQUESTED BY:**

**Anchor Realty  
2525 Gambell Street  
Suite 307  
Anchorage, AK 99503**

**Attention: John Estabrook**

**Reference:**

**Michael Investments**

**Subject:**

**Paint Failure**

2421 Palm Drive, Signal Hill, CA 90755 Tel: 562-427-VGEL (8435) Fax: 562-427-8434  
www.vglabs.com

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August 21, 2006

Laboratory Number 050320

Reference: Michael Investments

### ENGINEERING ANALYSIS

#### INTRODUCTION

On May 5, 2005 an investigation was initiated with regard to paint issues (flat, peeling and bleeding through) on a building in Anchorage Alaska. The building had been primed and painted between July 18, 2003 and August 6, 2003. It was reported that the finish coat showed streaking and "flashing" before the job was complete. More coats of paint were applied, but the streaking continued to reappear and continued to do so at least until June of 2004. By that time other problems had become apparent, including staining of windows due to the discharge involved in the streaking, peeling and bubbling of the paint, and an excessively flat finish on the painted surface. The objective of this analysis was to determine the cause of the paint issues.

#### BACKGROUND

Material samples remaining from the painting project were provided for analysis:

One sample of liquid paint that had been transferred into a 1-quart can. That paint was reported to be from a 5-gallon can marked "6430-0110 Dulux Fortis Ext Satin"

One sample from a 5-gallon can with a painted over label which was still partially legible and read in part "...1/2 Grey Lady Primer"

In this report, these are referred to as "subject paint" and "Grey Lady primer". A sample of dried paint and primer was also provided. It was reported to have been peeled from the building by hand.





### INSPECTION

On June 4 and June 5, 2006, inspection and testing of paint and primer adhesion was performed on the building at 2525 Gambell Street in Anchorage, Alaska, also known as the RAM building. Evidence of the streaking was noted on the windows. This appeared as an oily-looking film. However, no material could be removed or detected by touch. The streaking on the paint itself was no longer visible, but the finish of the paint was consistently flat, giving the appearance of primer rather than a finish coat. Testing was performed using an Elcometer Model F106 adhesion tester per ASTM D4541. While performing the adhesion tests, evidence was found of previous testing by both the "Tape Pull" method defined in ASTM D3351 and by the method of ASTM D4541. Previous tests performed on the first and second floors were inspected to determine the results. Most of the visible test sites had de-bonding of the paint and primer from the building panels.

An example of a previous test that appeared to be per ASTM D4541 is shown in Figures 1 and 2. This test was on the east side of the building. It was noted that paint would peel away easily from around the test spot. A previous test performed per ASTM D3351 is shown in Figure 3. This test appears to have produced a "OA" result, which is removal of paint beyond the area of scoring. Other evidence of previous testing was noted at locations around the building, including on the exterior of the third, fourth and fifth floors.

The testing on June 4 and 5 of 2006 was performed on exterior panels on the first and second floors. Readings produced by the method defined in ASTM D4541 are in units of pounds per square inch (psi) and indicate the tensile stress sustained by the primer bond to the building panels. Readings ranged from a low of 190 psi to higher than 500 psi, the maximum reading the Model F106 can record. The lowest readings occurred on the south side of building. The paint/primer coating could be peeled from the side of the building in several spots, most of which were also on the south



side of the building, and in a few spots on the east side of the building. An area exhibiting severe peeling on the south side of the building is shown in Figures 4 and 5. The tape that was applied to the area was conventional masking tape used to identify test spots, and no scores had been made to the surface. On the north and east sides of the building, the paint could not be peeled off as a sheet in any of the areas tested. In general, the primer adhesion was better on the north and west sides of the building. Several of the test pucks could not be separated from the building at a tensile stress of 500 psi. When some of these were forcibly removed, the primer actually pulled the mineral coating away from the reinforced concrete of the panels.

Sheets of peeled paint/primer coating from the building were retained for chemical analysis. It was noted that after performing adhesion tests, it was possible to grasp the edges of the paint/primer coating surrounding the test spot, and pull away large sheets of the paint and primer coating. This was particularly the case on the south side of the building.

#### ANALYSIS

Exemplar paint and primer that had been previously ordered was applied to an exemplar substrate. The subject "Grey Lady primer" and subject paint were also applied to an exemplar substrate. The substrate was fiberglass reinforced concrete with color impregnated mineral coating of the same manufacturer as the panels installed on the building. The samples were allowed to cure between and after coats for the time specified in the product instructions. The adhesion of the dried samples was then tested by tape pull per ASTM 3359. The results were:

Exemplar paint and primer:	5A – No peeling or removal
Subject paint and "Grey Lady primer":	0A – Removal beyond the area of the scoring.

Samples of dried paint and primer which were peeled from various locations on the building were analyzed by FT-IR on both the paint side and primer side. Liquid samples of the



subject and exemplar paint and subject and exemplar primers were also analyzed. The results of that analysis showed the following:

Primer side of dried samples from building	Styrene-Acrylic	Co-polymers	+
	Carbonate + Silica		
Paint side of dried samples from building	Acrylics + Clay		
Subject primer "Grey Lady" (liquid)	Acrylics + Clay		
Exemplar primer (liquid)	Styrene-Acrylic	Co-polymers	+
	Carbonate + Silica		
Subject paint (liquid)	Acrylics + Clay		
Exemplar paint (liquid)	Acrylics + Clay		

The analysis determined that the dried samples were composed of paint and primer, and that the chemical composition of the primer was similar to the liquid exemplar primer.

#### DISCUSSION

FT-IR analysis indicated that all of the dried samples removed from the building were composed of properly formulated primer covered by paint. The can marked "Grey Lady primer" was essentially paint, rather than primer. This is the reason for the failure of the subject "Grey Lady primer" to adhere to the exemplar substrate in laboratory testing. In contrast, the exemplar primer was able to establish a bond and adhere to the exemplar substrate.

Adhesion testing on the four sides of the building revealed that de-bonding and separation occurred overwhelmingly on the south side, with less on the east side and no notable de-bonding on the north and west sides. The south side of the building experiences the largest temperature swings of the four sides during summer months. The peeling is exacerbated by the greater thermal expansion of the coating relative to the fiberglass reinforced concrete panels.

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### CONCLUSION

The primer that is applied to the building appears to be properly formulated. The paint conforms to the specifications provided. This primer appears to have initially established adhesion, but did not maintain adhesion to the panels in specific areas. Most of the areas with a lack of adhesion are on the south side of the building. The peeling was likely caused by inability of the primer and paint coating to maintain adhesion during differential thermal expansion caused by changes in temperature.

At this time the reason for the flat finish, the recurring streaking on the painted surface and the staining on the windows has not been determined.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Michael Stapleford', written over a horizontal line.

Michael Stapleford  
Professional Engineer  
California No. M32051

Reviewed by:

A handwritten signature in black ink, appearing to read 'Gerald F. Zamiski', written over a horizontal line.

Gerald F. Zamiski, Ph.D.  
Professional Engineer  
California No. MT1851

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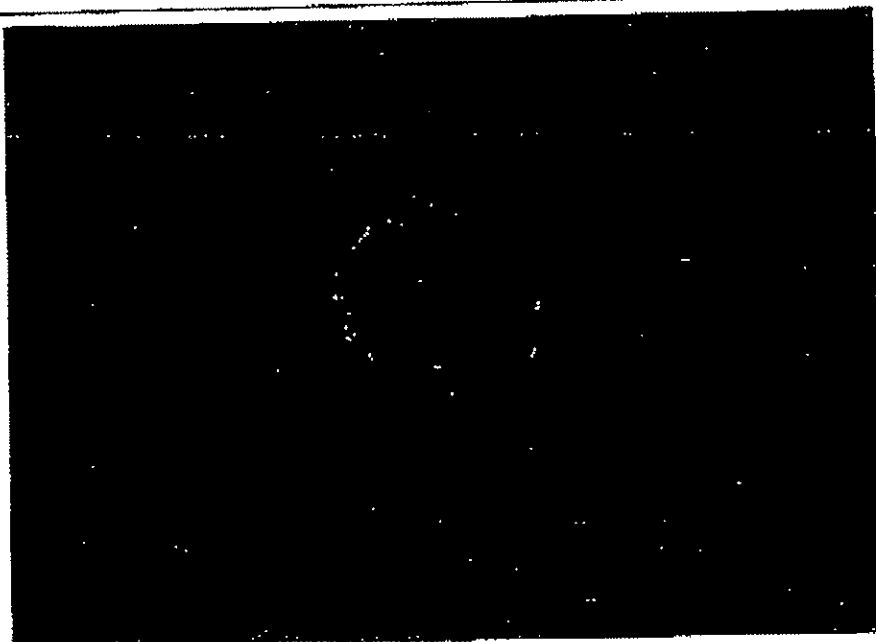


Figure 1

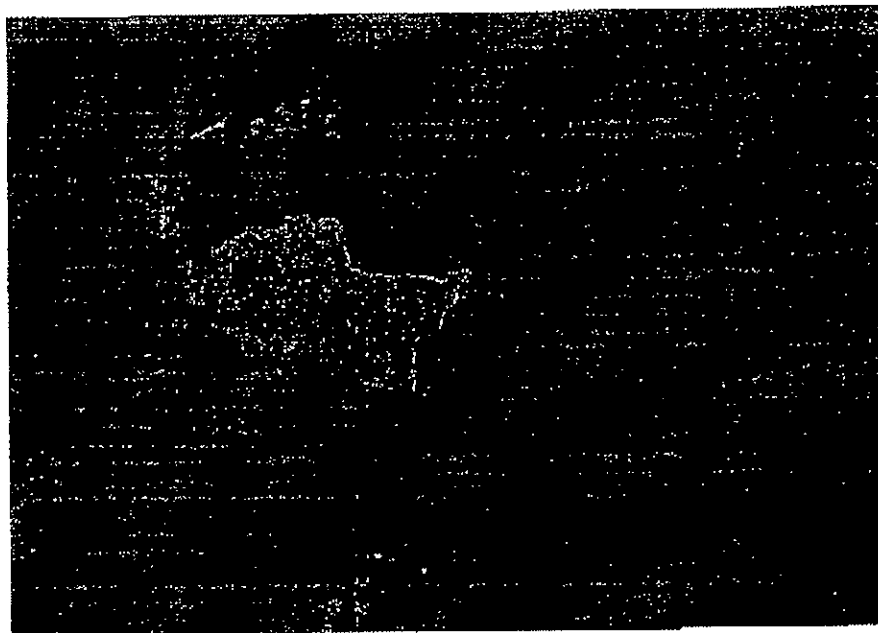


Figure 2

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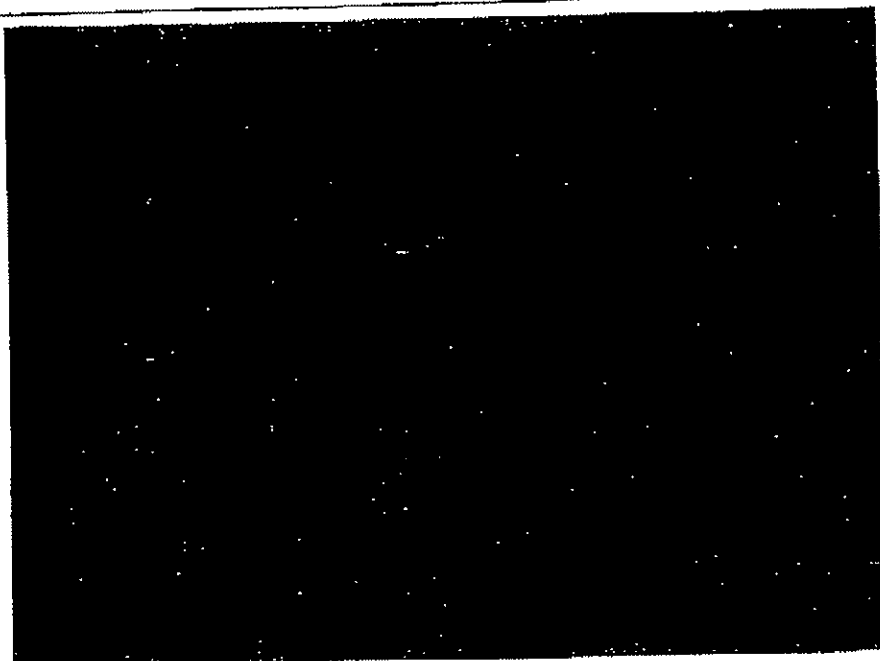


Figure 3



Figure 4

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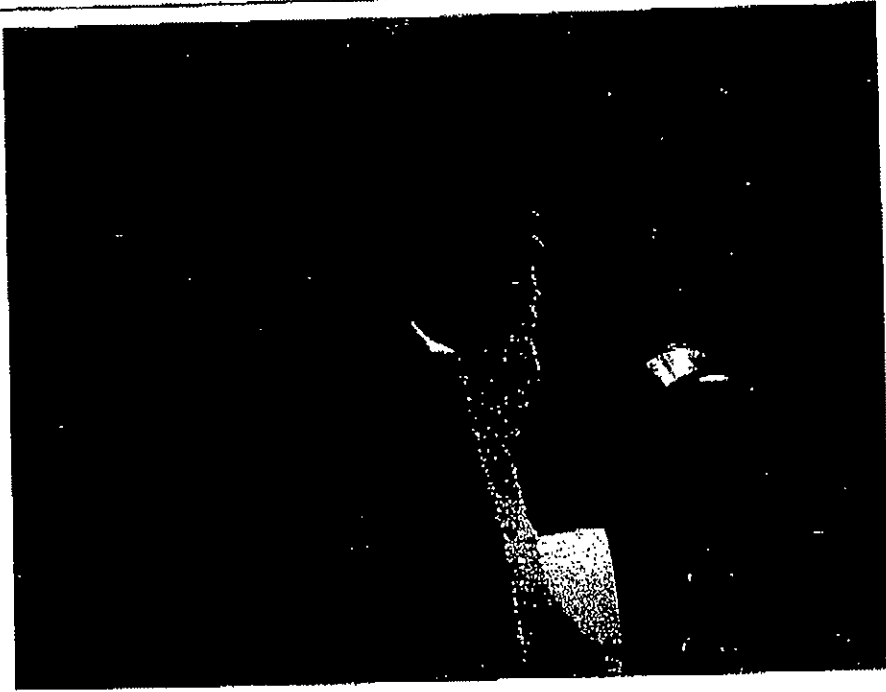


Figure 5